

BID FORM

MISSOURI DEPARTMENT OF TRANSPORTATION

GENERAL SERVICES

902 NORTH MISSOURI ST. – P.O. BOX 8

MACON, MO 63552

REQUEST NO.	D207-004-RM
DATE	July 25, 2006
PAGE NO.	1
NO. OF PAGES	10

SEALED BIDS, SUBJECT TO THE ATTACHED CONDITIONS WILL
BE RECEIVED AT THIS OFFICE UNTIL**1:00 PM, CST, August 4, 2006**AND THEN PUBLICLY OPENED AND READ FOR FURNISHING
THE FOLLOWING SUPPLIES OR SERVICES.**QUOTATIONS TO BE BASED F.O.B. MISSOURI
DEPARTMENT OF TRANSPORTATION**

Submit net bid as cash discount stipulations will not be considered

Picked up by MoDOT vehicles at PlantDEFINITE DELIVERY DATE MUST BE SHOWN. SIGN AND RETURN BEFORE TIME SET FOR OPENING. **ALL BIDS MUST BE
EXTENDED AND TOTALED.****BUYER:** Judy Franke, CPPB**BUYER TELEPHONE:** 660-385-8269 or 660-651-0022

ITEM NO.	SUPPLIES OR SERVICES	MFG. NO. OR BRAND	QUANTITY	UNIT	UNIT PRICE	AMOUNT
	Screened, washed and cleaned cinders purchased and picked up by MoDOT vehicles at plant.					
	Review the following Scope of Work for details.					
	Completion date to be done by September 15, 2006 for the 3,400 tons					
001	Cinders to be picked up at Plant		3,400	Tons	\$	\$

(SEE ATTACHED FOR CONDITIONS AND INSTRUCTIONS)

*In compliance with the above invitation for bids, and subject to all conditions thereof, the undersigned bidder agrees to furnish and deliver
any or all the items on which prices were quoted within _____ days after receipt of formal purchase order.***Date:** _____**Telephone No.:** _____**Fax No.:** _____**Federal I.D. No.** _____**Firm Name:** _____**Address:** _____**By (Signature):** _____**Type/Print Name** _____**Title:** _____

1. INTRODUCTION

This Request For Bid seeks bids from qualified organizations to provide Wet Bottom Boiler Slag (Cinders) to be picked up by MoDOT vehicles at a plant location located within a 30 mile radius of Jct. 3 & T, Macon County, District Two (North Central Missouri), for a contract period from Date of Award through September 15, 2006, to the Missouri Highways and Transportation Commission (MHTC), and Missouri Department of Transportation (MoDOT). Each bid must be mailed in a sealed envelope to Ms. Judy Franke, General Services Procurement Unit, 902 North Missouri St., P.O. Box 8, Macon, Mo 63552, or hand-delivered in a sealed envelope to the General Services Procurement Office in the Highway and Transportation Building at 902 North Missouri St., Macon, Missouri. Bids must be returned to the office of Ms. Judy Franke no later than 1:00 p.m., CST, August 4, 2006.

MHTC reserves the right to reject any and all bids for any reason whatsoever.

NOTE: The Bidder must SIGN and RETURN this page with the bid.

BID

- (1) The Bidder shall provide a firm, fixed price to MHTC on the front cover page (bid form) in accordance with the terms of this Request for Bid.
- (2) The Bidder agrees to provide the services specified herein at the firm, fixed price stated on the bid form, under the terms of this Request for Bid.

Authorized Signature of Bidder: _____
Date of Bid: _____
Printed or Typed Name: _____
Mailing Address: _____
City: _____ State: _____ Zip: _____
Telephone: _____ Fax: _____
Electronic Mail Address: _____

ACCEPTANCE

This bid is accepted by MHTC.

(Name and Title)

Date

1. INTRODUCTION AND GENERAL INFORMATION

1.1 Introduction:

- 1.1.1 This document constitutes a request for competitive, sealed bids for the provision of wet bottom boiler slag (cinders) **to be picked up by MoDOT vehicles at the plant** 3,400 Tons of wet bottom boiler slag (cinders) as set forth herein.
- 1.1.2 Organization – This document, referred to as a Request for Bid (RFB), is divided into the following parts:
- 1) Introduction and General Information
 - 2) Scope of Work
 - 3) Terms and Conditions

2. SCOPE OF WORK

2.1 Contractual Requirements:

- 2.1.1 The contractor shall provide wet bottom boiler slag (cinders) to be picked up by MoDOT vehicles at the plant **3,400 tons of wet bottom boiler slag (cinders)** for the Missouri Department of Transportation (hereinafter referred to as the "MoDOT") in accordance with the requirements and provisions stated herein. Unless otherwise stated, the contractor shall not deviate from the requirements stated herein.
- 2.1.2 The contractor shall insure that all work is performed under the general supervision and direction of the MoDOT. The contractor shall furnish, at his own expense, all labor and equipment required to produce the material. MoDOT wishes to furnish a MoDOT loader to be on site, to load their own fleet, upon agreement of both parties.
- a. The contractor shall understand and agree that the work specified herein is not for the purpose of obtaining rental equipment or employment of labor by the MoDOT.
 - b. The contractor shall understand and agree that MoDOT shall not have any direction or control over the contractor's employees during the performance of the work.

2.2 Specific Requirements:

2.2.1 Specification Designation:

- a. Wet Bottom Boiler Slag (Cinders), Black in Color
- b. **All cinders shall be screened, washed and cleaned, and meet the approval of MoDOT Superintendent Dale Niece at 660-385-8261 or 660-651-2490.**
- d. **All cinders shall be free of rock, mud and other debris.**

2.2.2 Starting and Completion Dates:

<u>District</u>	<u>Earliest Pickup Date</u>	<u>Completion Date</u>
a. D2 (3,400 tons)	Upon Receipt of "Notice to Proceed" (Approximately August 4, 2006)	September 15, 2006

2.2.3 **Product Viewing** - The contractor shall understand and agree that at the sole discretion of MoDOT, **MoDOT may conduct a product viewing prior to award.**

2.3 **Invoicing and Payment Requirements:**

2.3.1 The contractor shall submit upon completion of each line item, on the contractor's letterhead, an invoice to Missouri Department of Transportation, Attn: Judy Franke, P.O. Box 8, Macon, Missouri 63552 for compensation due.

2.3.2 The contractor shall be paid in accordance with the prices specified on the bid form (Front Cover Page) of this document for all services performed satisfactorily and in accordance with the contractual requirements specified herein.

2.3.3 Other than the payment specified above, no other payments or reimbursements shall be made to the contractor for any reason whatsoever.

2.4 **Other Contractual Requirements:**

2.4.1 Suspension/Termination: MoDOT, at its discretion, reserves the right to suspend or terminate the contract at any time, without penalty or recourse, for any failure by the contractor or its employees to satisfactorily perform the maintenance specified herein, in addition to the deduction of payment. In the event such action becomes necessary, MoDOT shall give written notice to the contractor at least thirty (30) calendar days prior to the effective date of such suspension/termination. The contractor shall be entitled to receive just and equitable compensation for services and/or supplies delivered to and accepted by the State of Missouri pursuant to the contract, prior to the effective date of suspend/termination. During any suspension/termination of the awarded contract, the MoDOT may, at its discretion, perform the maintenance specified herein with MoDOT's employees.

2.4.2 General Conditions of the Contract: During the performance of the contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "**Contractor**") agrees as follows:

2.4.3 Compliance with Regulations: The contractor shall comply with the **Regulations** relative to nondiscrimination in federally-assisted programs of the Missouri Department Of Transportation, **Title 49, Code of Federal Regulations, Part 21**, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of the contract.

2.4.4 Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of **race, color, or national origin** in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by **Section 21.5** of the **Regulations**, including employment practices when the contract covers a program set forth in **Appendix B of Regulations**.

2.4.5 Solicitations for Subcontracts, Including Procurements of Materials and Equipment: All solicitations, either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of the contractor's obligations under the contract, shall comply with the regulations relative to nondiscrimination on the grounds of **race, sex, religion, national origin, age, color, disability, or veteran status**.

2.4.6 Information and Reports: The contractor shall provide all information and reports required by the Regulations, or Directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Missouri Department Of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or Directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the Missouri Department Of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

2.4.7 Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of the contract, the Missouri Department Of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

- (a) **withholding of payments to the contractor under the contract until the contractor complies, and/or**
- (b) **cancellation, termination or suspension of the contract, in whole or in part.**

2.4.8 Incorporation of Provisions: The contractor shall include the provisions of Sections 4.1.4 thru 4.1.9 above in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or Directives issued pursuant thereto. The contractor shall take such action with respect to any subcontractor or procurement as the Missouri Department Of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Missouri Department of Transportation to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

2.5 Ticket Requirements:

2.5.1 The contractor's printer shall be capable of keeping and printing cumulative totals for each item number in the contract. The contractor's printer shall produce a ticket in triplicate to accompany each truckload and shall be furnished to the engineer. The ticket shall show the following:

- a. Gross, tare and net weights (masses).
- b. Identification of the vehicle.
- c. Current date and time.
- d. MoDOT's Purchase Order Number if applicable.
- e. Unique ticket number (may be preprinted on the ticket).
- f. Item, Specification Designation and Location

2.5.2 Manual Ticket - If the contractor lacks the ability to print a ticket, a manual ticket may be furnished, with the approval of the engineer.

2.5.3 Printer Failure - In the event of an automatic ticket printer failure, the contractor may be permitted, without approval from the engineer, to furnish manually written tickets to complete that day's operation.

2.5.4 Vehicle scales shall adhere to Section 310.4 of the Missouri Standard Specifications for Highway Construction, 2004 Edition.

2.6 Subletting of Contract:

2.6.1 It is specifically understood that no portion of the material shall be sublet or otherwise disposed of except with the written consent of the District Engineer. Request for permission to sublet or otherwise dispose of any part of the work shall be in writing to the District Engineer and accompanied by a showing that the organization, which will perform the work is particularly experienced and equipped for such work. Consent to sublet or otherwise dispose of any portion of the work shall not be construed to relieve the Contractor of any responsibility for the production and delivery of the material at the proposed daily rate and the completion of the work within the specified time. Also **all**

payments for work performed by a subcontractor shall be made to the Contractor to whom the contract was awarded and the purchase order issued.

2.7 Cancellation of Contract:

- 2.7.1 If the supplier fails to carry out the performance of the work with sufficient workmen and equipment to insure the completion of the delivery within the time specified or becomes insolvent or is adjudicated a bankrupt or commits any act of bankruptcy or insolvency or allows any final judgment to stand against him for a period of ten days, the Missouri Department Of Transportation may give notice in writing by registered mail to the supplier and the surety of such delay, neglect or default. If, within ten days after such notice the supplier does not proceed to remedy to the satisfaction of the Department's representatives the faults specified in said notice, or the surety does not proceed to take over the deliveries, the Department shall have full power and authority, without impairing the obligation of the supplier under the contract or the surety under the bond, to take over the completion of the work and arrange for the shipment of any materials necessary to complete the work and the supplier and the surety will be responsible for any additional costs incurred by the Department in obtaining the completion of the deliveries.

2.8 Other Requirements:

- 2.8.1 The contractor shall insure that the material supplied under the contract shall comply with the quality and requirements in Section 2.2 of this document.
- 2.8.2 The Highways and Transportation Commission reserves the right to increase or decrease the quantity of material **twenty-five percent (25%)**, subject to the maximum quantity specified by the bidder in his bid. The quantity finally ordered by the Commission will be furnished by the bidder at the same unit price per ton.

2.9 Method of Measurement Requirements:

- 2.9.1 For truck delivery, the quantities for basis of payment are to be determined as provided in **Section 310.5** of the **Missouri Standard Specifications for Highway Construction, Edition of 2004**, and any revisions thereto. Measurement will be to the nearest **100 lbs.** for each load when the measurement is by weight.

3. AWARD

- 3.1 Award:** Award of this RFB will be made on an "*All or Nothing*" basis using the "*lowest and best*" principle of award.

The **Bidder** represents he has a plant available for use in this work which is capable of producing the grade of material specified and guarantees that the "**Rate of Production**" to meet the completion date in this bid and will, if necessary to maintain this rate, immediately install any additional equipment needed to increase the rate of production.

Quantity of material under contract, agreement or order still to be produced on this date:

Tons

On Highway and Transportation Orders
For Highway and Transportation Contractors
For Others

Kind and condition of producing and hauling equipment _____

REMARKS _____

Bidders may limit the quantity of materials, which they will accept under this bid by so specifying herein. The Commission reserves the right to award contracts in such a manner as is most advantageous to the Commission.

IF THE BIDDER DESIRES TO LIMIT THE AMOUNT WHICH HE WILL ACCEPT UNDER THIS BID, COMPLETE THE FOLLOWING:

The maximum amount of materials which I will accept award of under this bid is _____

Company _____

Address _____

Zip Code

PLEASE SHOW TELEPHONE NUMBER

Business _____

Resident _____

Fax _____

By _____

Signature

Title _____

Federal I.D. No. _____

Date _____

**NOTE: IT IS ESSENTIAL THAT THIS SHEET BE SIGNED AND FILLED OUT IN EVERY
DETAIL THAT PERTAINS IN ANY WAY TO THE PRODUCTION
OF THIS MATERIAL.**

(Any further information desired regarding this work may be obtained from the **District Office of the District** in which the material is to be used.)

SIGNATURE AND IDENTITY OF BIDDER

The undersigned states that the correct LEGAL NAME and ADDRESS of (1) the individual Bidder, (2) each partner or joint venturer (whether individuals or corporations, and whether doing business under a fictitious name), or (3) the corporation (with the state in which it is incorporated) are shown below; that (if not signing with the intention of binding himself to become the responsible and sole contractor) he is the agent of, and duly authorized in writing to sign for the Bidder or Bidders; and that he is signing and executing this (as indicated in the proper spaces below) as the bid of a

() sole individual () partnership () joint venture

() corporation, incorporated under laws of state of _____

Dated _____,

Name of individual, all partners,
or joint venturers:

Address of each:

[illegible]

doing business under the name of:

Address of principal place of business in Missouri

(If using a fictitious name, show this name above in addition to legal names)

(If a corporation, show its name above)

ATTEST: (SEAL)

Secretary

Title _____

(NOTE: If the Bidder is doing business under a FICTITIOUS NAME, the Bid shall be executed in the legal name of the individual, partners, joint venturers, or corporation, with the legal address shown, and REGISTRATION OF FICTITIOUS NAME filed with the Secretary of State, as required by Sections 417.200 to 417.230, RS Mo. If the Bidder is a CORPORATION NOT ORGANIZED UNDER THE LAWS OF MISSOURI, it shall procure a CERTIFICATE OF AUTHORITY TO DO BUSINESS IN MISSOURI, as required by Section 351.570 and following, RS Mo. A CERTIFIED COPY of such Registration of Fictitious Name or Certificate of Authority to do Business in Missouri shall be filed with the Missouri Highway and Transportation Commission, as required by the Standard specifications, Sec 102.6.6 and 102.6.7.

PREFERENCE IN PURCHASING PRODUCTS

DATE: _____

The bidders attention is directed to Section 34.076 RSMo 2000 which gives preference to Missouri corporations, firms, and individuals when letting contracts or purchasing products.

Bids/Quotations received will be evaluated on the basis of this legislation.

All vendors submitting a bid/quotation must furnish ALL information requested below.

FOR CORPORATIONS:

State in which incorporated: _____

FOR OTHERS:

State of domicile: _____

FOR ALL VENDORS:

List address of Missouri offices or places of business:

THIS SECTION MUST BE COMPLETED AND SIGNED:

FIRM NAME: _____

ADDRESS: _____

CITY: _____ **STATE:** _____ **ZIP:** _____

BY (signature required): _____

Federal Tax I.D. #: _____ **if no Federal Tax I.D. # - list Social Security #:** _____

NOTE: For bid/quotation to be considered, the "Preference in Purchasing Products" form must be on file in the General Services (Procurement) Division and must be dated in the current calendar year.

MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT

The bidder's attention is directed to the Missouri Domestic Products Procurement Act, Sections 34.350 to 34.359, RsMO, which requires all manufactured goods or commodities used or supplied in the performance of this contract or any subcontract to be manufactured or produced in the United States.

Section 34.355, RsMO, requires the vendor or contractor to certify his compliance with Section 34.353 and, if applicable, Section 34.359, RsMO, at the time of bidding **and** prior to payment. Failure to comply with Section 34.353, RsMO, during the performance of the contract **and** to provide certification of compliance prior to payment will result in nonpayment for those goods or commodities.

Section 34.353.2, RsMO, specifies that it does not apply where the total contract is less than Twenty-Five Thousand Dollars (\$25,000.00). If your total bid is Twenty-Five Thousand Dollars (\$25,000.00) or more, you **must** complete this form as directed below.

Failure to complete and return this document with this bid will cause the State to presume the manufactured goods or products listed in the bid are not manufactured or produced in the United States, and the bid will be evaluated on that basis. Please read the certification appearing below on this form.

- [] If all the goods or products specified in the attached bid which the bidder proposes to supply to the State shall be manufactured or produced in the "United States" as defined in Section 34.350, RsMO, check the box at left.
- [] If only one item of any particular goods or products specified in the attached bid is manufactured or produced in the "United States" as defined in Section 34.350, RsMO, check the box at left and list the items (or item number) here:
- [] If any or all of the goods or products specified in the attached bid which the bidder proposes to supply to the State are **not** manufactured or produced in the "United States" as defined in Section 34.350, RsMO, then: (a) check the box at left; (b) list below, by item (or item number), the country other than the United States where each good or product is manufactured or produced; and (c) check the boxes to the left of the paragraphs below if applicable and list the corresponding items (or item numbers) in the spaces provided.

Item (or item number)	Location Where Item Manufactured or Produced

(attach an additional sheet if necessary)

- [] The following specified goods or products cannot be manufactured or produced in the United States in sufficient quantities or in time to meet the contract specifications. Items (or item numbers): _____
- [] The following specified goods or products must be treated as manufactured or produced in the United States, in accordance with an existing treaty, law, agreement, or regulation of the United States, including a treaty between the United States and any foreign country regarding export-import restrictions or international trade. Items (or item numbers): _____

CERTIFICATION

By submitting this document, completed as directed above, with a bid, the bidder certifies under penalty of making false declaration (Section 575.060, RsMO) that the information contained in this document is true, correct and complete, and may be relied upon by the State in determining the bidders qualifications under and in compliance with the Missouri Domestic Products Procurement Act.

The bidder's failure to complete and return this document with the bid as directed above will cause the State to presume the manufactured goods or products listed in the bid are not manufactured or produced in the United States, and the bid will be evaluated on that basis pursuant to Section 34.353.3(2), RsMO.

**IF NOT SUBMITTING A BID, PLEASE COMPLETE AND RETURN THE
FOLLOWING “NO BID FORM” TO ASSIST THE PROCUREMENT STAFF
IN OUR PROCESS EVALUATIONS.**

THANK YOU

NO BID

DATE: _____

TO: Missouri Department of Transportation – District 2
General Services (Procurement) Division
902 North Missouri Street P.O. Box 8
Macon, MO. 63552
(660)-385-1707 – fax #

FROM: _____

Our company is submitting “NO BID” on RFB # _____ for the reason(s) indicated below:

- ☐ Product of service is not available or cannot meet the required specifications
- ☐ Other obligations – cannot make required deadline
- ☐ The delivery point or work location is outside of our territory or coverage/service area
- ☐ Other – Please explain below:

Company Contact Person: _____ Phone # _____

- ☐ Please keep our name on the bidder’s list for future opportunities on this product or service.
- ☐ Please remove our name for your bidder’s list for this product or service.

**FAILURE TO RETURN A BID OR THIS FORM MAY RESULT IN
REMOVAL FROM OUR VENDOR DATABASE FOR FUTURE OPPORTUNITIES**

Missouri Highways and Transportation Commission
Standard Bid/Proposal Provisions, General Terms and Conditions and Special Terms and Conditions

STANDARD SOLICITATION PROVISIONS

- a. The Missouri Department of Transportation (MoDOT) reserves the right to reject any or all bids/quotes/proposals, and to accept or reject any items thereon, and to waive technicalities. In case of error in the extension of prices in the bid/quote/proposal, unit prices will govern.
- b. All bids/quotes/proposals must be signed with the firm name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.
- c. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown, within the State of Missouri.
- d. Time of delivery is a part of the consideration and, if not otherwise stated in the solicitation documents, must be stated in definite terms by the Bidder/Officer and must be adhered to. If time varies on different items, the Bidder/Officer shall so state.
- e. If providing bids/quotes/proposals for commodities, the Bidder/Officer will state brand or make on each item. If bidding or proposing other than the make, model or brand specified, the manufacturer's name, model number or catalog number must be given.
- f. **For bids/proposals of \$25,000 or more**, no bids/proposals by telephone, telegram or telefax will be accepted. If provided, these bids/proposals should be returned in the MoDOT solicitation return envelope.
- g. If a solicitation return envelope is provided by MoDOT, the bid/quote/proposal should be returned in the envelope provided with the Bid/RFQ/RFP Request Number plainly indicated thereon.
- h. The date specified for the returning of bids/quotes/proposals is a firm deadline and all bids/quotes/proposals must be received at the designated office by that time. The Department does not recognize the U.S. Mail, Railway Express Agency, Air Express, or any other organization, as its agent for purposes of accepting proposals. All proposals arriving at the designated office after the deadline specified will be rejected.

GENERAL TERMS AND CONDITIONS

General Performance

- a. This work is to be performed under the general supervision and direction of the Missouri Department of Transportation (MoDOT) and, if awarded any portion of the work, the Contractor agrees to furnish at his own expense all labor and equipment required to complete the work, it being expressly understood that this solicitation is for completed work based upon the price(s) specified and is not a solicitation for rental of equipment or employment of labor by MoDOT, and MoDOT is to have no direction or control over the employees used by the Contractor in performance of the work.

Nondiscrimination

- a. The Contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- b. All solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of the Contractor's obligations under this contract and the Regulations, will be relative to nondiscrimination on the grounds of race, color, or national origin.
 - 1) Sanctions for Noncompliance: In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, MoDOT shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - i. withholding of payments to the Contractor under the contract until the Contractor complies, and/or,
 - ii. cancellation, termination or suspension of the contract, in whole or in part.

Contract/Purchase Order

- a. By submitting a bid/quote/proposal, the Bidder/Officer agrees to furnish any and all equipment, supplies and/or services specified in the solicitation documents, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of: (1) the solicitation documents, amendments thereto, and/or Best and Final Offer (BAFO) request(s) with any changes/additions, (2) the Contractor's proposal and/or submitted pricing, and (3) the MHTC's acceptance of the proposal and/or bid by purchase order.
- c. A notice of award does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services, the Contractor must receive a properly authorized purchase order and/or notice to proceed.
- d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the Contractor and the duly authorized representative of the MHTC, by a modified purchase order prior to the effective date of such modification. The Contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification.

Subcontracting

- a. It is specifically understood that no portion of the material or any interest in the contract, shall be subcontracted, transferred, assigned or otherwise disposed of, except with the written consent of MoDOT. Request for permission to subcontract or otherwise dispose of any part of the work shall be in writing to MoDOT and accompanied by documentation showing that the organization, which will perform the work is particularly experienced and equipped for such work.

Missouri Highways and Transportation Commission
Standard Bid/Proposal Provisions, General Terms and Conditions and Special Terms and Conditions

- b. Consent to subcontract or otherwise dispose of any portion of the work shall not be construed to relieve the Contractor of any responsibility for the production and delivery of the contracted work and the completion of the work within the specified time.
- c. All payments for work performed by a subcontractor shall be made to the Contractor to whom the contract was awarded and the purchase order issued.

Invoicing and Payment

- a. MoDOT is exempt from paying Missouri Sales Tax, Missouri Use Tax and Federal Excise Tax. However, the Contractor may themselves be responsible for the payment of taxes on materials they purchase to fulfill the contract. A Federal Excise Tax Exemption Certificate will be furnished to the successful Bidder/Officer upon request.
- b. Each invoice should be itemized in accordance with items listed on the purchase order and/or contract. The statewide financial management system has been designed to capture certain receipt and payment information. Therefore, each invoice submitted must reference the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.
- c. Unless otherwise provided for in the solicitation documents, payment for all equipment, supplies, and/or services required herein shall be made in arrears. The Missouri Highways and Transportation Commission (MHTC) shall not make any advance deposits.
- d. The MHTC assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any authorized quantity is subject to the MHTC's rejection and shall be returned at the Contractor's expense.
- e. The MHTC reserves the right to purchase goods and services using the state-purchasing card.

Applicable Laws and Regulations

- a. The contract shall be construed according to the laws of the State of Missouri. The Contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract.
- b. The Contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations. Prior to the issuance of a purchase order and/or notice to proceed, the Contractor may be required to submit to MoDOT a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.
 - 1) Prior to the issuance of a purchase order and/or notice to proceed, all out-of-state Contractors providing services within the state of Missouri must submit to MoDOT a copy of their current Transient Employer Certificate from the Department of Revenue, in addition to a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.
- c. The exclusive venue for any legal proceeding relating to or arising, out of the contract shall be in the Circuit Court of Cole County, Missouri.

Preferences

- a. In the evaluation of bids/quotes/proposals, preferences shall be applied in accordance with Chapter 34 RSMo. Contractors should apply the same preferences in selecting subcontractors.
- b. By virtue of statutory authority, RSMo. 34.076 and 34.350 to 34.359, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri. Such preference shall be given when quality is equal or better and delivered price is the same or less.
 - 1) If attached, the document entitled **"PREFERENCE IN PURCHASING PRODUCTS"** should be completed and returned with the solicitation documents.
 - 2) If attached, the document entitled **"MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT"** should be completed and returned with the solicitation documents. **Applies if bid is Twenty-Five Thousand Dollars (\$25,000.00) or more.**
- c. In the event of a tie of low bids, the MHTC reserves the right to establish the method to be used in determining the award

Remedies and Rights

- a. No provision in the contract shall be construed, expressly or implied, as a waiver by the MHTC of any existing or future right and/or remedy available by law in the event of any claim by the MHTC of the Contractor's default or breach of contract.
- b. The Contractor agrees and understands that the contract shall constitute an assignment by the Contractor to the MHTC of all rights, title and interest in and to all causes of action that the Contractor may have under the antitrust laws of the United States or State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or produced by the Contractor in the fulfillment of the contract with the MHTC.
- c. In the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request MoDOT to enter into such litigation to protect the interests of the MHTC, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

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Cancellation of Contract

- a. The MHTC may cancel the contract at any time for a material breach of contractual obligations or for convenience by providing the Contractor with written notice of cancellation. Should the MHTC exercise its right to cancel the contract for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the Contractor.
- b. If the MHTC cancels the contract for breach, the MHTC reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner, as the MHTC deems appropriate and charge the Contractor for any additional costs incurred thereby.

Bankruptcy or Insolvency

- a. Upon filing for any bankruptcy or insolvency proceeding by or against the Contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assigned the benefit or creditors, the Contractor must notify MoDOT immediately. Upon learning of any such actions, the MHTC reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the Contractor responsible for damages.

Inventions, Patents, and Copyrights

- a. The Contractor shall defend, protect, and hold harmless the MHTC, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the Contractor's performance or products produced under the terms of the contract.

Inspection and Acceptance

- a. No equipment, supplies, and/or services received by MoDOT pursuant to a contract shall be deemed accepted until MoDOT has had reasonable opportunity to inspect said equipment, supplies, and/or services.
- b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the Contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.
- c. The MHTC reserves the right to return any such rejected shipment at the Contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.
- d. The MHTC's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the MHTC may have.

Warranty

- a. The Contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by MoDOT, (2) be fit and sufficient for the purpose expressed in the solicitation documents, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.
- b. Such warranty shall survive delivery and shall not be deemed waived either by reason of the MHTC's acceptance of or payment for said equipment, supplies, and/or services.

Status of Independent Contractor

- a. The Contractor represents itself to be an independent Contractor offering such services to the general public and shall not represent itself or its employees to be an employee of the MHTC. Therefore, the Contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers' compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save and hold the MHTC, its officers, agents and employees harmless from and against any and all losses (including attorney fees) and damage of any kind related to such matters.

Indemnification

- a. The Contractor shall be responsible for injury or damages as a result of any services and/or goods rendered under the terms and conditions of this Agreement.
- b. In addition to the liability imposed upon the Contractor on the account of personal injury, bodily injury, including death, or property damage, suffered as a result of the Contractor's performance under this Agreement, the Contractor assumes the obligation to save harmless the Commission, including its agents, employees and assigns, and to indemnify the Commission, including its agents, employees and assigns, from every expense, liability or payment arising out of such wrongful or negligent act or omission, including legal fees.
- c. The Contractor also agrees to hold harmless the Commission, including its agents, employees and assigns, from any wrongful or negligent act or omission committed by any subcontractor or other person employed by or under the supervision of the Contractor for any purpose under this Agreement, and to indemnify the Commission, including its agents, employees and assigns, from every expense, liability or payment arising out of such wrongful or negligent act or omission.